

FILED

APR 11 2014

Clerk, U.S. District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

vs.

DOMINGO BAEZ,

Defendant/Movant.

Cause No. CR 08-149-BLG-DWM

ORDER DENYING
MOTION TO SEAL AND GRANTING
EXTENSION OF TIME

This case comes before the Court on Defendant/Movant Baez's motion to vacate, set aside, or correct the sentence under 28 U.S.C. § 2255. Baez is a federal prisoner proceeding pro se.

On March 24, 2014, most of Baez's claims were denied. As to one claim, further proceedings are required. Baez was given an opportunity to decide whether he wished to withdraw the claim to maintain his previous attorneys' duties of confidentiality or whether he wished to waive their ethical obligations and proceed with his remaining claim of ineffective assistance of counsel. In addition, a schedule was set.

On April 7, 2014, Baez responded to the Order. He states that he intends to proceed and will waive his previous attorneys' duties of confidentiality for the purpose of litigating the § 2255 motion. He also asks the Court to extend his time to respond to trial counsels' and the government's submissions and to seal "any

and all filings, and/or arguments pertaining to the issue of the immunity agreement.” Resp. to Order (Doc. 353) at 1.

As to sealing, the fact that Baez provided some information was aired in open court at trial. Baez’s co-defendants knew it long before trial. The law does not support removing documents from the public record for the purpose of concealing information that was made public long ago. *See generally Phoenix Newspapers, Inc. v. U.S. Dist. Court*, 156 F.3d 940, 946-51 (9th Cir. 1998). The motion to seal will be denied.

Baez’s request for an extension of time to respond to trial counsels’ and the government’s submissions is reasonable and will be granted.

Accordingly, IT IS HEREBY ORDERED as follows:

1. Baez’s previous attorneys’ duties of confidentiality are WAIVED for the sole purpose of formal proceedings in this case. The terms of the Order of March 24, 2014, shall govern all disclosures of confidential attorney information.

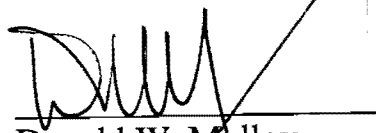
2. Baez’s motion to seal (Doc. 353/1) is DENIED.

3. Baez’s motion for extension of time (Doc. 353/2) is GRANTED. He may respond to trial counsels’ and the government’s submissions on or before **June 9, 2014**.

Baez must immediately advise the Court of any change in his mailing address by filing a “Notice of Change of Address.” Failure to do so may result in

dismissal of his § 2255 motion without notice to him.

DATED this 11th day of April, 2014.



Donald W. Molloy
United States District Court

